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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-32601 of 2017 (O&M)

Date of decision: October 07, 2017

Ajmer Singh

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE A.B. CHAUDHARI

Present: Mr. N.K. Verma, Advocate for the petitioner.

Mr. Dhruv Dayal, Sr. DAG Punjab.

Mr. Kanwaljit Singh, Senior Advocate with
Mr. Ajaivir Singh, Advocate
for applicant-respondent No.5.

A.B. CHAUDHARI, J (Oral)

CRM No.32334 of 2017

Heard.

Application is allowed subject to all just exceptions.

Annexures R-5/1 and R-5/2 are taken on record.

CRM-M-32601 of 2017

Heard learned counsel for the rival parties.

Following is the prayer in the present petition:-

“Petition u/s 482 Cr. P.C. for issuance of directions to respondent No.1 to handover the investigation of the case FIR No.10 dated 25.07.2012 registered u/s 7, 13(2) of 1988 of Prevention of Corruption Act at Police Station Vigilance Bureau, Patiala, to some independent agency other than the Vigilance Bureau. As respondents No.2 to 4 are hands in gloves with the accused and has not investigated in the matter in fair & proper manner despite of ample evidence

against the accused.”

This Court had made a detailed order on 06.09.2017 expressing the concern as to how despite the Magistrate giving warning in the matter of cancellation reports, the cancellation report was repeated. This Court had also asked the then Deputy Superintendent of Police, Mr. Birbal Singh, to file an explanation. Undoubtedly, the explanation which is filed on record is unsatisfactory, but then he has retired from service and therefore, I do not think any purpose would be served in asking the Punjab Police to take action against him. Affidavit of Birbal Singh is taken on record and he is discharged, accordingly.

The next question is about the relief sought by the petitioner.

Learned State counsel has filed on record the affidavit of Pritam Singh, PPS, Senior Superintendent of Police, Vigilance Bureau, Patiala Range, Patiala, District Patiala today in Court, which is taken on record. It is seen from the record that the petitioner has already filed a protest petition before the Magistrate and as informed by learned State counsel, hearing on the said protest petition would take place on 01.11.2017. In the light of cancellation report filed before the Magistrate and the protest petition, I think, at such a juncture, it would not be possible to order investigation with some other agency. The concerned Magistrate shall take into consideration the protest petition with all documents and after hearing the complainant so also the cancellation report filed by the police, in legal and correct perspective. The trial Court shall also take into consideration the earlier order made by this Court as well as interim order dated 06.09.2017. However, he would not be

influenced by any of the observations made in those orders, but shall independently apply his mind to the entire matter to find out the validity of the cancellation report.

In that view of the matter, this petition is disposed of relegating the petitioner to continue to avail of remedy of protest petition before the trial Court.

(A.B. CHAUDHARI)
JUDGE

October 07, 2017

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Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No